

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
)
ASIA TALK TELECOM, INC., dba)
HELLOCOM)
)
For a Certificate of Authority to)
Provide Intrastate Telecommunications)
Services Within the State of Hawaii.)
_____)

DOCKET NO. 05-0256

DECISION AND ORDER NO. 22256

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

2006 FEB -3 A 8:06

RECEIVED

Filed Feb. 1, 2006
At 1:45 o'clock P.M.

Karen Higashi
Chief Clerk of the Commission

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
ASIA TALK TELECOM, INC., dba)
HELLOCOM)
For a Certificate of Authority to)
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Docket No. 05-0256

Decision and Order No. 22256

DECISION AND ORDER

By this Decision and Order, the commission grants ASIA TALK TELECOM, INC., dba HELLOCOM ("Applicant"), a certificate of authority ("COA") to provide intrastate telecommunications services within the State of Hawaii ("State") as a reseller and to provide other telecommunications services as described in its Application,¹ subject to certain conditions, as described herein.

I.

Background

Applicant is a California corporation authorized to conduct business in the State as a foreign corporation.

On October 10, 2005, Applicant filed an Application seeking a COA to provide telecommunications services within the State, pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5 and

¹Application, Exhibits A - E, Verification, and Certificate of Service, filed on October 10, 2005 (collectively, the "Application").

Hawaii Administrative Rules ("HAR") §§ 6-80-17 and 6-80-18.² Applicant intends to offer and provide: (1) interstate telecommunications services in all fifty (50) states and the District of Columbia; (2) international telecommunications services; and (3) intrastate telecommunications services in approximately forty (40) states, including Hawaii. In Hawaii, Applicant intends to provide: (1) resold interstate telecommunications services; and (2) other telecommunications services, including inter-island, toll-free, travel card, and pre-paid travel card services. On December 13, 2005, Applicant filed its financial statement under confidential seal.

On January 17, 2006, the Consumer Advocate filed its Statement of Position, informing the commission that it does not object to the approval of the Application.³

²Applicant served copies of its Application upon the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate").

³As part of its review, the Consumer Advocate finds that Applicant's proposed tariff, "in general, is reasonable and is similar to, or the same as the proposed rules, regulations, and rates approved by the Commission for other current telecommunications carriers." Consumer Advocate's Statement of Position, at 5 (footnote and citation therein omitted). The commission also finds that Applicant's proposed tariff appears to comply with the applicable requirements of HAR chapter 6-80.

III.

Discussion

A.

Waivers

1. Records and Books

HAR § 6-80-136(a)(3) expressly waives the "[r]equirement that all records and books pertaining to the telecommunications carrier's intrastate operations be located in the State, as mandated by HRS § 269-8.2. Instead, the carrier shall promptly provide copies of its out-of-state records and books to the commission upon the commission's request[.]"

Applicant requests the commission's approval to retain its books and records in the State of California, provided that Applicant will make such information available to the commission upon request. The Consumer Advocate states that it does not object to Applicant's request. The commission notes that Applicant's request is consistent with HAR § 6-80-136(a)(3), thus, no commission action is necessary.

2. Audited Financial Statement

HAR § 6-80-17(c)(1)(E) requires Applicant, as part of the COA process, to submit "a copy of [its] most recent audited financial statement and, if more than three months have elapsed since the date of the most recent audited financial statement, a current, unaudited financial statement[.]" Concomitantly, HAR § 6-80-135(a) authorizes the commission to exempt or waive certain requirements set forth in HAR chapter 6-80, including HAR

§ 6-80-17(c)(1)(E), upon a determination that an exemption or waiver is in the public interest.

The Consumer Advocate, based on its review of Applicant's unaudited financial statement filed under confidential seal,⁴ notes that Applicant did not file an audited financial statement, as mandated by HAR § 6-80-17(c)(1)(E). Nonetheless, the Consumer Advocate recognizes that "the costs to produce an audited financial statement may not outweigh the benefit to be derived from such requirement."⁵ Accordingly, the Consumer Advocate, in this instance, does not object to the commission, on its own motion, waiving the requirement for Applicant to submit an audited financial statement as part of its Application.

The commission concurs with the Consumer Advocate's assessment, and pursuant to HAR § 6-80-135(a), waives the requirement set forth in HAR § 6-80-17(c)(1)(E) for Applicant to submit an audited financial statement.

B.

Certificate of Authority

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a

⁴See Consumer Advocate's Statement of Position, at 3 - 4 n.6.

⁵Consumer Advocate's Statement of Position, at 3 n.6.

certificate of public convenience and necessity ("CPCN") from the commission.⁶ HAR § 6-80-18(a) states that:

The commission shall issue a certificate of authority to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:

- (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the State;
- (2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and
- (3) The proposed telecommunications service is, or will be, in the public interest.

HAR § 6-80-18(a).

Having reviewed the record, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services, as evidenced by the financial statement and resumes of its founding partners submitted in support of its Application, and its representation that it intends to rely on the technical expertise of its underlying telecommunications carrier, Qwest.

⁶On June 3, 1996, HAR chapter 6-80 took effect. HAR chapter 6-80 replaces the CPCN with a COA for telecommunications carriers, and establishes procedures for requesting and issuing a COA.

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission, as evidenced by the representations in its Application. Moreover, the commission's grant of a COA to Applicant to provide the proposed services will be conditioned upon Applicant's conformity to the terms, conditions, and rules prescribed or adopted by the commission as discussed below.

3. Applicant's proposed telecommunications services are in the public interest. The commission recognizes that additional service providers in the industry increase competition and provide the consumer with options in Hawaii's telecommunications market. As noted by the Consumer Advocate, Applicant's proposed services are in the public interest as "the introduction of effective competition in the telecommunications industry is desirable to achieve certain benefits that would not be present in a monopolistic environment."⁷

Based on the foregoing, the commission grants Applicant a COA to provide intrastate telecommunications services within the State as a reseller and to provide other telecommunications services as described in its Application.

⁷Consumer Advocate's Statement of Position, at 4.

IV.

Orders

THE COMMISSION ORDERS:

1. The requirement set forth in HAR § 6-80-17(c)(1)(E) for Applicant to submit an audited financial statement is waived, pursuant to HAR § 6-80-135(a).

2. Applicant is granted a COA to provide intrastate telecommunications services in the State as a reseller and to provide other telecommunications services as described in its Application.

3. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269; HAR chapters 6-80 and 6-81; any other applicable State laws and commission rules; and any orders that the commission may issue from time to time.

4. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.

5. Applicant shall conform its initial tariff to the applicable provisions of HAR chapter 6-80. An original and eight (8) copies of Applicant's initial tariff shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

6. Within thirty (30) days from the date of this Decision and Order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to the commission's office at 465 S. King Street #103, Honolulu, HI, 96813.

7. Within thirty (30) days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$10, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order No. 21847, filed on May 31, 2005, in Docket No. 05-0088. (A copy of Decision and Order No. 21847 is attached hereto as Exhibit 1.) The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, NECA Services, Inc., 80 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

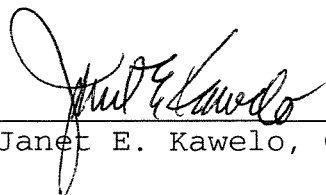
8. Applicant's failure to comply with the requirements set forth in paragraphs 4 to 7, above, constitute cause to void this Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii FEB - 1 2006.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Michael Azama
Commission Counsel

05-0256.cs

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
PUBLIC UTILITIES COMMISSION)
)
Instituting an Investigation)
into the Carrier Contribution)
Factor and Telecommunications)
Relay Services Fund Size for)
the period of July 1, 2005)
through June 30, 2006.)
_____)

DOCKET NO. 05-0088

DECISION AND ORDER NO. 21847

Filed May 31, 2005
At 10 o'clock A.M.

Karon Hight.
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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PUBLIC UTILITIES COMMISSION)
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Instituting an Investigation)
into the Carrier Contribution)
Factor and Telecommunications)
Relay Services Fund Size for)
the period of July 1, 2005)
through June 30, 2006.)
_____)

Docket No. 05-0088
Decision and Order No. 21847

DECISION AND ORDER

By this Order, the commission: establishes the Telecommunications Relay Services ("TRS") carrier contribution factor for the period July 1, 2005 to June 30, 2006 (the "Period"), at 0.0010, and establishes the projected TRS fund size for the Period, at approximately \$680,000.

I.

Background

By Order No. 21730, filed on April 12, 2005, ("Order No. 21370") the commission initiated the instant proceeding to examine whether to modify the TRS carrier contribution factor and fund size for the Period, established in accordance with Order No. 20193, filed on May 23, 2003, in

Docket No. 03-0058 ("Order No. 20193").¹ Specifically, in Order No. 21370, the commission proposed to continue the existing carrier contribution factor of .0010, established by Order No. 21049, filed on April 15, 2004, in Docket No. 04-0070. The commission also proposed to keep the projected TRS fund size, for the Period, at approximately \$680,000.

The commission served copies of Order No. 21730 on The Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") and Sprint, the parties to this proceeding, and mailed copies of Order No. 21730 to all chartered, certificated and registered telecommunications carriers, except payphone providers, at their mailing addresses on file with the commission to solicit written comments. Written comments to the proposals were accepted until May 6, 2005. As of the date of this Order, no written comments were filed with the commission on any of the commission's proposals.

II.

Background

On May 23, 2003, the commission issued Order No. 20193, in Docket No. 03-0058 which, among other things, ordered: (1) every telecommunications carrier providing intrastate telecommunications service in the State of Hawaii to contract

¹In Docket No. 03-0058, the commission selected SPRINT COMMUNICATIONS CO., LP ("Sprint") as the exclusive provider of intrastate TRS within the State of Hawaii ("State of Hawaii") from July 1, 2003 to June 30, 2006. See Decision and Order No. 20163, filed on April 30 2003. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058.

with Sprint for the provision of telecommunications relay service, for the period beginning July 1, 2003 to June 30, 2006; (2) every carrier providing intrastate telecommunications service in Hawaii shall contribute to the TRS fund on the basis of gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year, consistent with the terms of Order No. 20193²; (3) contributors' contribution to the TRS fund shall be the product of their gross operating revenue from the retail provision of intrastate telecommunications services during the preceding calendar year, which is subject to investigation by the commission, and a contribution factor determined annually by the commission, consistent with the terms of Order No. 20193; and (4) the annual TRS funding period commences July 1 and ends June 30 of each year.

III.

Discussion

The Commission received no comments or objections to the proposals in Order No. 21730. Upon review, the commission finds the proposals in Order No. 21730 to be reasonable and in the public interest. Accordingly, the carrier contribution factor for the Period shall be 0.0010 and the projected TRS fund size, for the Period shall be established at approximately \$680,000.

²The commission specifically excluded payphone providers from contributing to the TRS fund.

III.

Orders

THE COMMISSION ORDERS:

1. The contribution factor for the Period (July 1, 2005 to June 30, 2006) shall be 0.0010. The projected TRS fund size, for the Period, shall be approximately \$680,000.

2. Each carrier shall complete and submit a TRS Reporting Worksheet, attached to this Order as Exhibit "A".

3. Annual contributions are due July 26th; carriers who owe contributions \$1,200 or more may pay in twelve equal monthly installments, due on the 26th of each month, provided that they submit their TRS Reporting Worksheet by July 26th.


4. Carriers reporting \$10,000 or less in gross intrastate retail revenues shall contribute at least \$10.00 for the period July 1, 2005 to June 30, 2006.

5. Every carrier, except Commercial Mobile Radio Service ("CMRS") providers, shall comply with the 30-day notice requirement of HRS § 269-16(b) and HAR § 6-80-40(b) for any TRS surcharge imposed on its customers, both residential and business, to recover the amount of its contribution. CMRS providers shall place information on their TRS surcharges on their websites, consistent with Decision and Order No. 20890, filed on April 7, 2004, in Docket No. 03-0186.

6. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058, is amended consistent with the terms and conditions of this decision and order. In all other respects, Order No. 20193 remains unchanged.

DONE at Honolulu, Hawaii MAY 31 2005.


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

By 
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:


Kevin M. Katsura
Commission Counsel

05-0088.ah

State of Hawaii
Public Utilities Commission
Telecommunications Relay Services
Carrier Remittance Worksheet
For the Period July 1, 20__ - June 30, 20__

SECTION A	CARRIER IDENTIFICATION
Date:	
Company Name:	
Mailing Address:	
Email Address:	

SECTION B	REMITTANCE CALCULATION
1. Gross Revenues (Based on Prior Calendar Year) <small>(e.g., Current year is 20X2; Report revenues from 20X1) (Amount should match gross revenues reported for Hawaii PUC Fee purposes, HRS § 269-30)</small>	
2. Less: Revenue Adjustments (describe, see Section E)	< >
3. Gross Intrastate Retail Revenues	
4. Hawaii TRS Contribution Factor	.001
5. Gross Hawaii TRS Assessment (line 3 x line 4)	
6. Greater of line 5 or \$10.00 (minimum due)	
<p>If Line 6 is less than \$1,200, this is your annual contribution to the TRS Fund for the period beginning July 1st of the current year to June 30th of the following year. Please pay the amount on line 6, in full, by July 26th of the current year. Send your remittance with a copy of this worksheet to the address listed below.</p> <p>If Line 6 is \$1,200 or more, continue to line 7 below.</p>	

SECTION C	MONTHLY CONTRIBUTION
7. Divide line 6 by 12	
<p>Line 7 is your first monthly contribution to the TRS Fund, for the period beginning July 1st of the current year to June 30th of the following year. Send your 1st monthly remittance with a copy of this worksheet to the address listed below. Please pay the amount on line 7 by July 26th. NECA Services, Inc. will then send you a bill for the remaining eleven monthly payments.</p>	

SECTION D	CERTIFICATION
<p>Under penalties as provided by law, I certify that I am duly authorized to verify the foregoing information contained herein and that the information is true and correct to the best of my knowledge and belief.</p>	
Date	Officer Name
Date	Contact Name
Officer Signature	Contact Phone
Officer Title	Contact Title

<p style="text-align: center;">Questions???</p> <p style="text-align: center;">Hawaii TRS Administrator NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981 Phone (973) 884-8011 Fax (973) 599-6504</p>	<p style="text-align: center;">Make checks payable to "Hawaii TRS" and send with worksheet to: Attn: Hawaii TRS Administrator NECA Services, Inc. 80 S. Jefferson Road Whippany, NJ 07981</p>
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SECTION E DETAILS CONCERNING REVENUE ADJUSTMENT(S)

If revenue adjustment(s) are not explained here, amounts deducted will be disallowed and proposed assessments may be prepared against you.

Describe amounts deducted from Gross Revenues to obtain Gross Intrastate Retail Revenues (list):	Amount
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
TOTAL	

Exhibit "A"

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21847 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

MAGGIE SCHOOLAR
GOVERNMENT ACCOUNT EXECUTIVE
SPRINT COMMUNICATIONS
1321 Rutherford Lane, Suite 120
Austin, TX 78753



Karen Higashi

DATED: MAY 31 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22256 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

LANCE J.M. STEINHART, ESQ.
LANCE J.M. STEINHART, P.C.
1720 Windward Concourse
Suite 250
Alpharetta, GA 30005

Counsel for ASIA TALK TELECOM, INC., dba HELLOCOM



Karen Higashi

DATED: FEB - 1 2006